

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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THOMAS GADBAW,

Plaintiff,

v.

TRACY DOWNS,

Defendant.

ORDER

14-cv-202-slc

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This is a medical malpractice action in which plaintiff Thomas Gadbow alleges federal diversity jurisdiction under 28 U.S.C. § 1332. A review of the complaint, dkt. 1, reveals that plaintiff's allegations regarding the parties' citizenship are inadequate. Plaintiff has alleged residency but not domicile.

The first question in any federal lawsuit is whether the court has subject matter jurisdiction, and the court has an independent obligation to ensure that it exists. *Arbaugh v. Y & H Corporation*, 546 U.S. 500, 501 (2006); *Avila v. Pappas*, 591 F.3d 552, 553 (7<sup>th</sup> Cir. 2010). Section 1332 requires complete diversity of citizenship, which means that no plaintiff may be a citizen of the same state as any defendant. 28 U.S.C. § 1332(a)(1); *McCready v. EBay, Inc.*, 453 F.3d 882, 891 (7<sup>th</sup> Cir. 2006).

Residency is meaningless for purposes of diversity jurisdiction; an individual's citizenship is determined by his or her domicile. *Dakuras v. Edwards*, 312 F.3d 256, 258 (7<sup>th</sup> Cir. 2002). An individual is a citizen of the state in which he is domiciled, that is, where he has a "permanent home and principal establishment, and to which [he] has the intention of returning whenever he is absent therefrom." Charles Alan Wright, *Law of Federal Courts* 161 (5<sup>th</sup> ed. 1994); *see also Heinen v. Northrop Grumman Corp.*, 671 F.3d 669, 670 (7<sup>th</sup> Cir. 2012) ("But residence may or may not demonstrate citizenship, which depends on domicile-that is to say, the state in which a person intends to live over the long run."); *Guar. Nat'l Title Co. v. J.E. G. Assocs.*, 101 F.3d 57, 58–59 (7<sup>th</sup> Cir. 1996) (explaining that statements concerning a party's "residency" are not proper allegations of citizenship as required by 28 U.S.C. § 1332); *see also* 28 U.S.C. § 1332. Therefore, plaintiff must report each party's domicile.

ORDER

It is ORDERED that not later than June 24, 2014, plaintiff must submit verification, in the form of an affidavit or stipulation, of the citizenship of the parties.

Entered this 17<sup>th</sup> day of June, 2014.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge